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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM A. HAZZARD

Plaintiff

Vs.

TIM CURTIS,
MACK MCMURRAY,
AFSCME, DISTRICT 90,
AND THE HARRISBURG
SCHOOL DISTRICT

Defendants

CIVIL ACTION LAW

No. 1:CV-00-1758

(JUDGE RAMBO)

JURY TRIAL DEMANDED

FILED
HARRISBURG

MAR 04 2002

MARY E. D'ANDREA, CLERK
Per 9/5
DEPUTY CLERK

PLAINTIFFS COUNTERSTATEMENT OF MATERIAL FACTS
TO DEFENDANTS AFSCME AND MACMURRY'S
STATEMENT OF MATERIAL FACTS

- 1.) Admitted.
- 2.) Admitted.
- 3.) Admitted.
- 4.) Admitted.
- 5.) Admitted.
- 6.) Admitted.
- 7.) Admitted.

8.) Admitted and Denied. By way of further response the issue of 1B classification as opposed to a 1A classification is not a matter affecting qualifications to bid on a custodian position ie., 1A's and 1B's under the contract can bid at will for 1A or 1B positions. The only qualification being seniority under the contract.

9.) Admitted. It is believed that the defendant Curtis issued the so called memo on his own.

10.) Admitted.

11.) Denied. This averment is inaccurate and wrong in all ways, see Epp's Dep, pg 23, Tapper Dep, pg 32, McCollum Dep, pg 10, Chivis Dep pg 18. Of the aforementioned, Chivis, Epps, Tapper, and McCollum are all, or were, AFSCME officials. None knew of this "temporary" status for MacMurry and it didn't surface until this litigation. There are also no documents to support it.

12.) Denied. But not being given the Rowland position he lost \$50/hr.

13.) Admitted. AFSCME fought for MacMurry. They didn't represent or fight for Hazzard.

14.) Admitted.

15.) Admitted.

16.) Denied that this fact as stated, though technically correct, is relevant.

17.) Admitted.

18.) Admitted. The District was assisted in that effort by AFSCME who surreptitiously withdrew Hazzard's grievance without notifying him.

19.) Admitted that under many circumstances the District can transfer. Denied they can transfer to a new position after they have posted it and it has been duly bid on.

20.) Admitted.

21.) Admitted.

22.) Admitted. And Chivis didn't put up a fight, but rolled over on the issue some months later.

23.) Denied. This so called conversation is self serving and incredibly, was never communicated to the work force or memorialized in writing. If this is true why didn't Chivis notify Hazzard, Epps, Tapper, and McCollum when she got the grievance instead of waiting to attend the third step hearing? Plaintiff avers this alleged fact is false and that it is totally lacking in credibility.

24.) Denied. Regardless they had posted the position and Hazzard was the only one who bid. They simply didn't want a white head custodian at the new school.

25.) Admitted. And Chivis lost. Hazzard still receives a "minors" pay. When the grievance was withdrawn this proposal died. Hazzard was not informed of the withdrawal.

26.) Denied. Chivis withdrew this grievance because MacMurry was black and Hazzard was white and because that's what the entire group of defendants wanted.

27.) Admitted. She had never informed Hazzard.

28.) Admitted.

29.) Admitted. Neither AFSCME not the District had much choice.

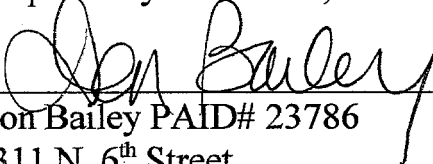
30.) Admitted. This outrageous conduct by Curtis was so egregious AFSCME had no choice. This suit was pending.

31.) Nichelle Chivis contacted Wanda Williams (District Board President) and warned her of Hazzard's coming. Chivis Dep, pgs 47-50.

32.) MacMurry never bid on the Rowland job or asked to be transferred, Chivis Dep, pg 18.

33.) Chivis admitted there was no difference between a "major" 1B position and a "minor" 1A position except for a small pay differential, Chivis Dep. pgs 25-26.

Respectfully Submitted,


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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of MARCH 2002 a true and correct copy of the foregoing **DOCUMENT** were served upon the following counsel of record by United States Mail, postage prepaid and by Fax:

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